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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
6 **SAN FRANCISCO DIVISION**
7

8 *In re DMCA Subpoena to X Corp. dba*
9 *Twitter*

Case No. [23-mc-80294-PHK](#)

10 **ORDER SETTING DEADLINES RE:**
11 **CONSENT OR DECLINATION TO**
12 **PROCEED BEFORE A UNITED**
13 **STATES MAGISTRATE JUDGE**

14 **ORDER SETTING DEADLINES RE: CONSENT**

15 The Court has received a joint discovery letter in this matter regarding a dispute concerning
16 a third-party subpoena. According to the rules of this district, this case was assigned a designated a
17 miscellaneous or “mc” action and randomly assigned to a magistrate judge. Cognosphere Pte. Ltd.
18 filed the request to issue the subject subpoena pursuant to the Digital Millennium Copyright Act
19 (“DMCA”), 17 U.S.C. § 512(h), seeking documents from X Corp. [Dkts. 1 and 7]. The request for
20 issuance of the subpoena was filed as a stand-alone matter and not in conjunction with a lawsuit.
21 *Id.*

22 X Corp. objects to the subpoena but has not appeared. [Dkt. 7]. According to the Parties,
23 there is now a dispute as to this subpoena. Adjudication on the objections to the subpoena would
24 constitute a final decision in this miscellaneous matter, as there would be no further case or
25 controversy before this Court. *See CPC Pat. Techs. Pty Ltd. v. Apple, Inc.*, 34 F.4th 801, 808 (9th
26 Cir. 2022) (orders under 28 U.S.C. § 1782 are reviewable as final decisions “because, unlike an
27 ordinary discovery order that is just one step in an ongoing federal case, . . . there is no further case
28 or controversy before the district court”); *accord Williams v. King*, 875 F.3d 500, 500 (9th Cir.

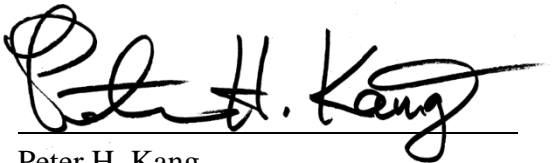
2017); *In re DMCA Subpoena to Reddit, Inc.*, 441 F. Supp. 3d 875, 880 (N.D. Cal. 2020). As such, the undersigned lacks jurisdiction absent consent of both Parties. *Id.*

Accordingly, Cognosphere Pte. Ltd. shall serve a copy of this Order on X Corp. by **January 26, 2024**. Cognosphere Pte. Ltd. is further directed to communicate with counsel for X Corp. and request that (1) counsel for X Corp. enter an appearance, and (2) X Corp. timely file with the Court a “Consent or Declination to Magistrate Judge Jurisdiction” form indicating whether X Corp. consents to or declines Magistrate Judge jurisdiction in this matter. The form is available at: https://cand.uscourts.gov/mj_consent-declination_form_10-2020/. Both Cognosphere Pte. Ltd. and X Corp. shall have until **February 9, 2024**, within which to file a “Consent or Declination to Magistrate Judge Jurisdiction” form indicating whether each Party consents to or declines Magistrate Judge jurisdiction in this matter. Any party is free to withhold consent to proceed before a Magistrate Judge without adverse substantive consequences. Fed. R. Civ. P. 73(b)(2).

The Court will order the Clerk to reassign this matter to a district judge if the Court does not have both Parties’ consent on or before **February 9, 2024**.

IT IS SO ORDERED.

Dated: January 17, 2024

A handwritten signature in black ink, appearing to read "Peter H. Kang", written over a horizontal line.

Peter H. Kang
United States Magistrate Judge